



**TOWN OF NORTH HEMPSTEAD
OFFICE OF THE TOWN ATTORNEY**

LOCAL LAW MEMO

To: Supervisor and Members of the Town Board
From: Elizabeth D. Botwin, Town Attorney *EB*
Re: Proposed Local Law Amending Chapter 70 of the Town Code entitled
"Zoning"
Date: September 19, 2014

Enclosed is a copy of a proposed Local Law Amending Chapter 70 of the Code of the Town of North Hempstead entitled "Zoning". The purpose of the amendment is to reduce the minimum lot size required for properties in the "Senior Residence" zoning district and to reduce the minimum allowable age of residency for projects utilizing certain Federal housing tax credits.

cc: Wayne H. Wink, Jr.
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Robert Troiano
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Nick Guariglia
Rachel Brinn



**TOWN OF NORTH HEMPSTEAD
OFFICE OF THE TOWN ATTORNEY**

**PROPOSED LOCAL LAW AMENDING
CHAPTER 70 OF THE TOWN CODE ENTITLED
"ZONING."**

LOCAL LAW MEMORANDUM

Purpose of Law:

The purpose of the amendment is to reduce the minimum lot size required for properties in the "Senior Residence" zoning district and to reduce the minimum allowable age of residency for projects utilizing certain Federal housing tax credits.

Budget Implications:

The proposed Local Law will have no direct budgetary implications.

Explanation:

Matter in **bold** is new. Matter in brackets with strikethrough [~~—~~] is old law to be omitted.

**TOWN OF NORTH HEMPSTEAD
LOCAL LAW NO. OF 2014**

**A LOCAL LAW AMENDING CHAPTER 70 OF THE TOWN CODE
ENTITLED "ZONING"**

BE IT ENACTED by the Town Board of the Town of North Hempstead, as follows:

Section 1. Legislative Intent.

The Board finds that it is in the best interest of the Town of North Hempstead to make amendments to Chapter 70 entitled "Zoning" in order to reduce the minimum lot size required for properties in the "Senior Residence" zoning district and to reduce the minimum allowable age of residency for projects utilizing certain Federal housing tax credits.

Section 2.

Chapter 70, Article X1, of the Town Code is hereby amended as follows:

Article X1. Senior Residence District (R-S)

[Added 6-8-1999 by L.L. No. 7-1999]

§ 70-95.1. Purpose and intent.

A. Pursuant to the public purpose of providing specialized housing facilities for senior citizens to meet the special housing, health care, social and recreational needs of this segment of the population, the Town Board establishes a Senior Residence District (R-S) as a floating district that permits the development of Senior Residence Communities as specified herein.

B. The Town Board may establish an R-S floating district in the RM, Hospital, Business A, Business B, Industrial A and Industrial B Districts subject to the following standards and requirements. Such district shall be affixed to the official Town Zoning Map where such district is approved.

C. Developments which utilize Federal housing programs administered by the New York State Housing Finance Agency & New York State Homes & Community Renewal which provide housing tax credits for the project shall designate developments as 55 and over in order to comply with all Fair Housing regulations as stated in Section §807(b)(2) of the Fair Housing Act in accordance with the following:

(1) At least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older.

(2) The housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph of the Fair Housing Act.

(3) The housing facility or community complies with rules issued by the Secretary for verification of occupancy, which shall provide for verification by reliable surveys and affidavits; and include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of subsection (C)(2) above. Such

surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such.

§ 70-95.2. Permitted uses.

A. A building or buildings may be erected, altered or used and a lot or premises may be used for the following purposes and no other:

- (1) Senior independent-living facilities.
- (2) Senior congregate-living facilities.
- (3) Senior assisted-living facilities.
- (4) Nursing homes.
- (5) Senior day-care centers.

~~[B. There shall be a minimum of two types of principal uses to constitute an R-S community, and no more than 50% of the total number of units may be for nursing care.]~~

§ 70-95.3. Accessory uses.

Senior Residence Districts may contain or provide uses necessary to and customarily incidental to such facilities where such uses are limited to use by residents, their guests and employees as follows:

- A. Community meeting rooms.
- B. Library.
- C. Convenience retail, barber and beauty shops; snack bar and gift shops.
- D. Group dining rooms.
- E. Medical offices, limited to use by residents, with no visible sign announcing their presence.
- F. Physical therapy and exercise rooms, limited to use by residents.
- G. Outdoor active and passive recreation space.

§ 70-95.4. Height.

- A. No principal building shall exceed three stories or 45 feet in height.
- B. No accessory building shall exceed one story or 12 feet in height.

§ 70-95.5. Plot area; frontage; density of population.

A. Every project under this article shall occupy a plot of not less than ~~[five]~~ **two** acres. ~~[There shall be a minimum of 100 feet of frontage and direct access to a state or county road.]~~ The maximum allowable density in the R-S district shall be calculated based on the following densities:

Type of Facility	Maximum Units/Acre
Senior independent living	32
Senior congregate living	32
Senior assisted living	38
Nursing home	50 beds
Senior day-care center	N.A.

B. A 25% density bonus shall be available for senior independent-living facilities where such units are made available as affordable senior citizen facilities as defined in § 70-231.

C. For buildings containing more than one senior citizen facility, a composite total of 32 units per acre shall be permitted, with each use assessed at the following rate:

Type of Facility	Equivalent Unit
Senior independent living	1.0
Senior congregate living	1.0
Senior assisted living	.85

§ 70-95.6. Building area.

In the case of R-S developments, the maximum coverage of land by principal and accessory buildings shall not exceed 35% of the lot area.

§ 70-95.7. Floor area.

A. Buildings containing the following senior citizen facilities shall have the following minimum and maximum gross habitable floor area per unit:

Type of Facility	Minimum Floor Area/Unit (square feet)	Maximum Floor Area/Unit (square feet)
Senior independent living	600	1,600
Senior congregate living	550	1,600
Senior assisted living	350	1,000

B. In senior independent, congregate- and assisted-living facilities, a minimum of 40% of the dwelling units shall be one bedroom units. No dwelling unit shall contain more than two bedrooms.

C. No basement apartments shall be permitted in any senior citizen facility other than one such apartment for the use of a superintendent, custodian or other person in charge of the maintenance of such dwelling.

§ 70-95.8. Required yards and perimeter buffer area.

~~[A. The minimum required yard at all property lines within an R-S District shall be 30 feet.]~~

~~[B]~~ A. There shall be a minimum perimeter buffer of ~~[25]~~ 15 feet around all R-S communities, suitably landscaped and permanently maintained with planting of trees and shrubs in accordance with specifications of the site plan approved by the Town Board as part of the approval of the RS District.

~~[C]~~ B. Landbanked parking may be located within a required buffer in accordance with the limitations set forth in § 70-95.13B.

§ 70-95.9. Separation of buildings.

A. There shall be a minimum distance of [25] **20** feet between any two main buildings on the same lot within the R-S District.

B. All buildings shall be situated in such a manner as to provide adequate light and air.

§ 70-95.10. Open space and amenity space.

A minimum of 80 square feet per dwelling unit of indoor common amenity space other than dining space shall be provided. A minimum of 50 square feet of common outdoor active and passive recreation and open space shall be provided per dwelling unit.

§ 70-95.11. Design features.

All senior citizen facilities shall be designed to meet the special needs of senior citizens and at a minimum shall contain the following:

- A. A call button monitoring or equivalent system within each dwelling unit for emergency calls to on- or off-site emergency personnel.
- B. Exterior access, at a minimum of two locations, without steps.
- C. Grab bars in all tub and shower stalls.
- D. Corridor length and design to facilitate wayfinding.
- E. Elevators required for access to all units above the first story.
- F. Non-skid floors.
- G. Handle-type spigots and doorknobs.
- H. In all rooms, doors of sufficient width to accommodate wheelchairs.
- I. Separation of vehicular circulation drive from pedestrian walks.
- J. Changes in grade on walk systems to be accomplished by ramps.
- K. Passenger dropoff for occupants and visitors near entrance and elevator halls of buildings.

§ 70-95.12. Sewage disposal.

No Senior Residence District shall be permitted unless provided with municipal sewerage or unless an independent sewage disposal plant, approved by the Nassau County Department of Health and/or Town of North Hempstead Building Department, is constructed for the sanitary disposal of the sewage of such buildings.

§ 70-95.13. Parking requirements.

A. Off-street parking for senior residence communities shall be calculated based upon the total of the parking requirements of the individual components which comprise the R-S where such requirements are set forth in § 70-103, with the exception that up to a ten-percent reduction in the requirement may be applied for and granted by the Town Board based on a demonstration that a sharing of personnel between facilities would effectively reduce the required parking.

B. Landbanked parking as defined in § 70-231 may be permitted for senior independent, congregate-, and assisted-living facilities within the required buffer subject to the following restrictions.

(1) Landbanked parking shall be limited to 40% of the required parking.

(2) Landbanked parking shall be indicated as such on the site plan and shall be maintained as landscaped or open green space.

(3) No structure shall be erected in any designated landbanked area.

(4) Landbanked parking shall be located a minimum of 15 feet from any property line abutting a residence district.

§ 70-96. (Reserved).

Section 3.

Chapter 70, Article XXV, of the Town Code is hereby amended as follows:

SENIOR CITIZEN FACILITY

A facility intended to provide for the specialized living and/or daily caregiving needs of persons 62 years of age or older, including senior independent-living facilities, senior congregate-housing facilities, senior assisted-living facilities and senior day-care facilities, **except as described in § 70-95.1.C.**

SENIOR CONGREGATE-LIVING FACILITY

A building, portion of a building or group of buildings containing three or more dwelling units where individual cooking facilities are limited to microwave ovens and/or cooktops, specially designed for use and occupancy by the elderly, including a common dining facility and other common amenities and whose occupancy is restricted to persons 62 years of age or older or couples, one of whose member is 62 years of age or older.

SENIOR DAY-CARE FACILITY

A facility with limited operating hours where specialized caregiving and supervision are provided for three or more adults who may have difficulties with one or more essential activities of daily living, such as feeding or mobility, away from their own homes for less than 24 hours per day.

SENIOR INDEPENDENT-LIVING FACILITY

A building, portion of a building or group of buildings containing dwelling units with full kitchens specially designed for use and occupancy by the elderly which may have common amenities but no common dining and whose occupancy is restricted to persons 62 years of age or older or couples, one of whose member is 62 years of age or older, **except as described in § 70-95.1.C.**

SENIOR RESIDENCE DISTRICT (R-S)

A building or group of buildings that contain any combination of two or more residential senior citizen facilities, nursing homes or senior day-care facilities on the same site restricted to persons 62 years of age or older or couples, one of whose member is 62 years of age or older, not necessarily regulated under Article 46 of the New York State Public Health Law, **except as described in § 70-95.1.C.**

Section 4.

This Local Law shall take effect immediately upon filing with the Secretary of State.